

ORDINANCE 19-09

AN ORDINANCE TO AMEND the Town of Millville Code at Chapter 155, entitled "Zoning," at § 155-13, entitled "C1 - Town Center Commercial District," § 155-14, entitled "C2 - Town Commercial District," and § 155-79, entitled "Definitions and word usage."

WHEREAS, the Town Council of Millville has the power to adopt ordinances to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants, and to adopt zoning ordinances pursuant to Title 22, § 301 of the Delaware Code; and

WHEREAS, the Town of Millville has adopted a Zoning Ordinance for the municipality, which has been codified in Chapter 155 of the Town Code;

NOW, BE IT THEREFORE ORDAINED, by the Town Council for the Town of Millville, Sussex County, Delaware, having duly met and a majority thereof concurring herein, following a duly noticed public hearing on February 12, 2019, that the following language hereby be adopted and incorporated into the Town of Millville Code and the Zoning Ordinance at Chapter 155 as follows:

Additions will be in black bold and underlined.

~~Deletions will be black bold and struck through.~~

§ 155-13 C1 – Town Center Commercial District.

- A. Purpose of the district. The purpose of this district is to provide a mixed-use district, which functions as the historical hub of the Town and which provides a mixed residential, retail convenience shopping and personal service use area. It is not intended as a district to accommodate regional shopping facilities. The district also permits business and professional offices, which can be compatible with residential uses.
- B. Permitted uses. In a C1 – Town Center Commercial District, a building may be erected, altered or used on a lot or premises and may be used for any of the following purposes:
 - (1) Uses permitted in R – Residential District, in conformity with the permitted residential requirements;
 - (2) Apartments above commercial businesses;
 - (3) Small Scale Shopping Center in compliance with the following:
 - (a) Minimum lot frontage: 200 feet.

- (b) Minimum lot area: two acres.
- (c) Maximum lot area: four acres.
- (d) Minimum building setbacks:

[1] Front: 20 feet.

[2] Side: ~~20 feet~~, 15 feet.

[3] Rear: 20 feet.

[a] When the rear lot line of a C1-Town Center Commercial District parcel abuts a residentially zoned parcel or residential use, the rear building setback along the common property line shall be expanded to a minimum of 30 feet. A landscape buffer area of no less than 10 feet in width shall be provided in the thirty-foot setback area.

[b] A buffer planting strip not less than 10 feet wide shall be provided along all side lot lines which form a common lot line with any residential district or residential use.

- (e) All buildings within the small-scale shopping facility shall be either in a group or groups, either physically attached or if separated, having a separation of at least 10 feet. Sidewalks and walkways adjacent to buildings may be protected from the weather by overhead roofs, which may extend between separated buildings as long as the structure(s) meet the requirements of the State of Delaware State Fire Marshal's Office.

(4) Retail sales, such as:

- (a) Bakery;
- (b) Pharmacy;
- (c) News and bookstore;
- (d) Retail store;
- (e) Florist\nursery;
- (f) Antique store;
- (g) Art gallery or studio;

(h) Liquor store;

(i) Sidewalk sales, provided sales are to be conducted on business property with improvements thereon and confined to the exclusive display only of merchandise the business sells in its establishment at that location. No merchandise displayed on the sidewalk shall be permitted which obstructs, interferes with, or in any way is a hazard to the orderly movement of pedestrian traffic. A minimum of 5 feet of unobstructed sidewalk (the width of curb shall not be included) will be provided at all times.

(j) Restaurant housed in a permanent building, which may include;

[1] Full service;

[2] Carry-out;

[3] Drive-through or drive-in;

[4] Food counter;

[5] Tavern and bar;

[6] Brew pub, winery or distillery, as an accessory use to a restaurant.

[a] All restaurant owners who will be serving alcoholic beverages must apply with the Alcohol Beverage Control Commission (ABCC), which is the final approving authority of licensing establishment for the sale of alcoholic beverages in the Town limits.

(k) Coffee, ice cream or frozen dessert shop;

(l) Clothing and apparel shop;

(m) Furniture store;

(n) Home center\hardware store;

(o) Produce market;

(p) Landscape design and installation center;

(q) Interior furnishings store, including but not limited to fixtures, floor covering, and window treatments;

(5) Personal service establishments, such as:

- (a) Barber shop;
- (b) Beauty salon, including day and tanning spa, hair and nail salon;
- (c) Laundromat;
- (d) Dry cleaner (drop-off and pickup only);
- (e) Tailor shop;
- (f) Financial institution;
- (g) Photographic studio;
- (h) Repair shops, limited to shoe, clock and computer;
- (i) Travel agency;
- (j) Health and exercise facility.

(6) Professional services, such as:

- (a) Funeral home;
- (b) Business, professional or governmental offices;
- (c) Day-care, learning and educational centers;
- (d) Utility office;
- (e) Newspaper publisher; and
- (f) Computer/online services.

(7) Amusements, indoor and outdoor;

(8) Hotel, motel, bed-and-breakfast;

(9) Meeting hall/conference center;

(10) Fraternal and service organizations, public and private.

- C. Permitted accessory uses and structures. Accessory uses are incidental to and subordinate to the principle use of the lot. The following are permitted accessory uses:

- (1) Parking in conjunction with a permitted use, including off-street parking for customers, employees and commercial vehicles used in the permitted activity;
- (2) Indoor storage of merchandise or supplies carried in conjunction with a permitted business or office use; and
- (3) Residences for the owner or employees of the business.
- (4) One detached accessory garage in compliance with the following:
 - (a) Any residentially used lot of less than 0.75 acre may, as an accessory to a single-family dwelling, have a detached accessory garage not to exceed 800 square feet.
 - (b) Any residentially used lot of 0.75 acre or greater may, as an accessory to a single-family dwelling, have a detached accessory garage not to exceed a maximum of 1,200 square feet.
 - (c) Storage space located in attic areas shall be included in total square footage.
 - (d) A detached accessory garage must have a pitched roof and shall exceed neither 1 1/2 stories nor 18 feet in height.
 - (e) No detached accessory garage shall be located in any front yard area.
 - (f) A detached accessory garage shall have the following setbacks from the rear and side property lines:

	Setback	Building Height
Square Footage	(feet)	
Up to 800	10	18 feet - not to exceed 1 1/2 stories
800 to 1,000	15	18 feet - not to exceed 1 1/2 stories
More than 1,000	20	18 feet - not to exceed 1 1/2 stories
 - (g) A detached accessory garage shall not occupy more than 20% of the side or rear yard in which it is located.
 - (h) All accessory buildings and principal buildings shall not exceed the maximum lot coverage of 35% as stated in § 155-13H (4).
 - (i) All properties along Route 26 should follow the Town's Development Design Standards and Guidelines.
- (5) Yard waste drop-off facility in compliance with the following:

(a) Yard waste drop-off facilities in conjunction with a landscaping business, nursery or both, for the temporary storage and transfer of yard waste, must be approved as an accessory use by the Town Council.

(b) Items accepted for yard waste collection shall be limited to:

[1] Grass clippings and leaves.

[2] Limbs and tree trimmings.

[3] Plants, weeds and shrubbery.

(c) The yard waste site shall be located no closer than 300 feet from any residentially used property as measured from the edge of the nearest pile to the nearest residentially used property line.

(d) The yard waste site shall be enclosed by fencing or shall reasonably limit vehicular and pedestrian access through the use of fences, trees or other means.

(e) Yard waste to be disposed of must be clean of other waste. Individuals who haul the yard waste are responsible for ensuring that their load is secured as to prevent littering along the roadways. However, nothing in this subsection limits any potential liability of the property owner.

~~D. Uses permitted by conditional use. In addition to any other non-prohibited use, following uses may be permitted as a conditional use when approved in accordance with the provisions of Article X of this chapter:~~

~~(1) Restaurant with an outdoor dining service area;~~

~~(2) Small engine repair shop;~~

~~(3) Veterinary clinic;~~

~~(4) Woodworking and cabinet shop;~~

~~(5) Gas station with or without associated convenience store;~~

~~(6) Performing arts theater, with or without a permitted accessory banquet hall.~~

~~E. D.~~ Building height. The height of a building shall neither exceed 42 feet in height nor be more than four stories, exclusive of a basement.

~~F. E.~~ Area and yard requirements.

(1) The following requirements shall apply to all uses in the zone except where otherwise provided:

(a) Minimum:

[1] Lot frontage: 100 feet.

[2] Lot area: 8,000 square feet.

[3] Each side yard: 15 feet.

[4] Front yard: 20 feet. (NOTE: The "Development Design Standards and Guidelines for Route 26 and Route 17" encourages commercial buildings to be placed near the street line with parking located to the side or rear of the primary building.)

[5] Rear yard: 20 feet.

[a] When the rear lot line of a C1-Town Center Commercial District parcel abuts a residentially zoned parcel or residential use, the rear building setback along the common property line shall be expanded to a minimum of 30 feet. A landscape buffer area of no less than 10 feet in width shall be provided in the thirty-foot setback area.

[b] A buffer planting strip not less than 10 feet wide shall be provided along all side lot lines which form a common lot line with any residential district or residential use.

(b) All portions of the property not utilized by buildings or paved surfaces shall be landscaped, utilizing combinations such as fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage, and the planting of conifers and/or deciduous trees native to the area in order to either maintain or reestablish the tone of the vegetation of the area and lessen the visual impact of the structures and paved areas. The established grades on any site shall be planned for both aesthetic and drainage purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and silting, as well as to assure that the capacity of any natural or man-made drainage system is sufficient to handle the water generated and anticipated both from the site and contributing upstream areas.

(2) See Article VII, Supplementary District Regulations, for additional requirements.

(3) Maximum coverage: the maximum coverage of the lot, including all buildings, parking areas, and other impervious surface areas shall not exceed 60%.

Maximum coverage may be increased to 70% if the applicant presents a plan placing the building near the street with parking located to the side or rear of the primary building and the additions of streetscape, plazas, courtyards and permanent site furnishings such as benches, tables, bike racks, trash cans, planters, lighting and additional landscaping, etc. Such increase in coverage will be at the discretion of the Town Council based on the findings by the Planning and Zoning Commission that the above improvements are incorporated and are in excess of the minimum requirements established in the "Development Design Standards and Guidelines for Route 26 and Route 17," and provide increased development quality to the site.

G. F. Minimum off-street parking.

(1) See Article VII, Supplemental District Regulations, § 155-28.

§ 155-14 C2 – Town Commercial District.

A. Purpose of the district. The purpose of this district is to provide for well-planned and attractive larger-scale commercial and shopping facilities.

B. Permitted uses. In a C2 – Town Commercial District, a building or buildings may be erected, altered or used on a lot or premises and may be used for any of the following purposes and none other:

(1) Any uses permitted in C1-Town Center Commercial District;

(2) Restaurant housed in a permanent building, which may include:

- (a) Full service;
- (b) Carry-out;
- (c) Drive-through or drive-in;
- (d) Food counter;
- (e) Tavern and bar;
- (f) Brew pub, winery and distillery, as an accessory use to a restaurant.
- (g) All restaurant owners who will be serving alcoholic beverages must apply with the Alcohol Beverage Control Commission (ABCC), which is the final approving authority of licensing establishment for the sale of alcoholic beverages in the Town limits.

(3) Supermarkets;

(4) Shopping centers;

(5) Motels and hotels;

- (6) Home improvement stores;
- (7) Nursery, garden and farm supply sales;
- (8) Clinics, hospitals and urgent-care facilities;
- (9) Car wash;
- (10) Conference centers.

C. Permitted accessory uses. Accessory uses are incidental to and subordinate to the principle use of the lot. The following are permitted accessory uses:

- (1) Parking in conjunction with a permitted use, including off-street parking for customers, employees and commercial vehicles used in the permitted activity;
- (2) Indoor storage of merchandise or supplies carried in conjunction with a permitted business or office use;
- (3) Accessory uses to churches, synagogues or other places of religious worship, such as religious instructional activities, day-care center and preschool.

~~D. Uses permitted by conditional use. In addition to any other nonprohibited use, the following uses may be permitted as a conditional use when approved in accordance with the provisions of Article X of this chapter:~~

- ~~(1) Restaurant with an outdoor dining service area;~~
- ~~(2) Gas station with or without an associated convenience store;~~
- ~~(3) Auto repair shops;~~
- ~~(4) Small engine repair shops;~~
- ~~(5) Veterinary clinics;~~
- ~~(6) Woodworking and cabinet shops;~~
- ~~(7) Performing arts theaters, with or without a permitted accessory, banquet hall;~~
- ~~(8) Automobile and boat sales and services; and~~
- ~~(9) Marine construction and repair establishments.~~

~~E.~~ D. Building height. The height of a building shall neither exceed 42 feet in height nor be more than four stories, exclusive of a basement.

~~F.~~ E. Area and yard requirements:

(1) Shopping centers:

- (a) Minimum lot frontage: 200 feet.
- (b) Minimum lot area: five acres.
- (c) Minimum building setbacks:
 - [1] Front: 50 feet.
 - [2] Side: 25 feet.
 - [3] Rear: 30 feet.
- (d) Maximum impervious surface coverage (including buildings): 70%.
- (e) All buildings within the shopping center shall be either in a group or groups, either physically attached or if separated, having a separation of at least 10 feet. Sidewalks and walkways adjacent to buildings may be protected from the weather by overhead roofs, which may extend between separated buildings as long as the structure(s) meet the requirements of the State of Delaware State Fire Marshal's Office.

(2) For all other uses:

- (a) Minimum lot frontage: 100 feet.
- (b) Minimum lot area: 15,000 square feet.
- (c) Minimum building setbacks:
 - [1] Front yard setback: 35 feet.
 - [2] Rear yard setback: 30 feet.
 - [3] Each side yard: 15 feet.
- (d) Maximum impervious surface coverage (including buildings): 70%.

~~G.~~ F. When the rear yard of a C-2 zoned parcel abuts a residentially zoned parcel or residential use, the minimum building setback along the common property line shall be expanded to a minimum of 60 feet. A landscaped buffer area of no less than 25 feet in width shall be included within the sixty-foot setback area.

~~H.~~ G. A buffer planting strip not less than 10 feet wide shall be provided along all lot lines which form a common boundary with any residential district.

~~I.~~ H. See Article VII, Supplementary District Regulations, for additional requirements.

~~J.~~ I. All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing combinations, such as fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage, and the planting of conifers and/or deciduous trees native to the area in order to either maintain or reestablish the tone of

the vegetation of the area and lessen the visual impact by the structures and paved areas. The established grades on any site shall be planned for both aesthetic and drainage purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and silting, as well as to assure that the capacity of any natural or man-made drainage system is sufficient to handle the water generated and anticipated both from the site and contributing upstream areas.

~~K.~~ J. All buildings in a single project shall conform to a single architectural style.

~~L.~~ K. Minimum off-street parking. See Article VII, Supplemental District Regulations, § 155-28. See Attachment 1.

~~AA.~~ L. Minimum off-street loading.

(1) A minimum of one space per business or one space for the first 5,000 square feet plus one space for each additional 10,000 square feet, whichever is more.

(2) See Article VII, Supplemental District Regulations, § 155-28.

§ 155-79 Definitions and word usage.

For the purposes of this chapter, certain terms or words used herein shall be interpreted as follows:

~~OUTDOOR DINING SERVICE AREA~~

~~A porch, patio, deck or area of land which is not within the permanent, outside walls of a restaurant or eatery, which is used for seated dining only. Unamplified musical instruments or sound reproduction systems are permitted in outdoor dining areas, but shall be maintained at sufficiently low volumes so as not to unduly intrude on neighboring businesses, residents, or users of the public right-of-way beyond the outdoor dining area and that the area shall be cleared by patrons by 11:00 p.m.~~

...

~~PERFORMING ARTS THEATER~~

~~A building or part of a building devoted to showing dramatic, educational, musical, or other live stage performances and which provides seating for each patron. Performing arts include but are not limited to dance; music; opera; drama; and magic.~~

...

~~SERVICE STATION (ALSO REFERRED TO AS GAS STATIONS)~~

~~(1) Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made, and no other:~~

~~(a) Sale and servicing of spark plugs, batteries, and distributors and distributor parts;~~

~~(b) Tire servicing and repair, but not recapping or regrooving;~~

~~(c) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;~~

~~(d) Radiator cleaning and flushing;~~

~~(e) Washing and polishing, and sale of automotive washing and polishing materials;~~

~~(f) Greasing and lubrication;~~

~~(g) Minor servicing and repair of carburetors;~~

~~(h) Emergency wiring repairs;~~

~~(i) Adjusting and repairing brakes;~~

~~(j) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;~~

~~(k) Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation; and~~

~~(l) Provision of road maps and other informational material to customers; provision of rest room facilities.~~

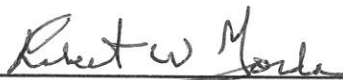
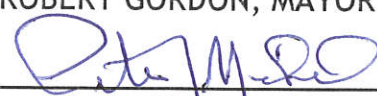
~~(2) Uses permissible at a service station do not include major mechanical and body works, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage; it is not a body shop.~~

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MILLVILLE, SUSSEX COUNTY,
DELAWARE, ON THIS 12 DAY OF February, 2019.

SEAL:



ATTESTED:


ROBERT GORDON, MAYOR

PETER MICHEL, SECRETARY

 SYNOPSIS

The Mayor and Council previously amended the Town Code to allow for non-prohibited uses to be the subject of a conditional use application if the use was not permitted as of right. That amendment rendered the listing of specific conditional uses in the C1 and C2 districts unnecessary. The listing remained for the purpose of providing examples. However, the listing has the potential to create confusion and be interpreted as the limited universe of potential conditional uses in those districts. Thus, this Ordinance removes those listings, as well as definitions related to those conditional uses. This Ordinance does not affect existing conditional uses and the limitations placed upon them, including the limitations inherent in the definitions in effect at the time of approval.

